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8                   UNITED STATES DISTRICT COURT  
9                   WESTERN DISTRICT OF WASHINGTON  
10                  AT TACOMA

11 ERIC KLOPMAN-BAERSELMAN, as  
12 Personal Representative for the Estate of  
13 RUDIE KLOPMAN-BAERSELMAN,  
14 deceased,

15                  Plaintiff,

16                  v.

17 AIR & LIQUID SYSTEMS  
18 CORPORATION, et al.,

19                  Defendants.

20                  CASE NO. 3:18-cv-05536-RJB

21                  ORDER ON DEFENDANT  
22 MAERSK LINE, LIMITED'S  
23 MOTION FOR SUMMARY  
24 JUDGMENT

25                  THIS MATTER comes before the Court on Defendant Maersk Line, Limited's Motion  
26 for Summary Judgment. Dkt. 9. The Court has considered the motion, Plaintiff's Response,  
27 Defendant's Reply, and the remainder of the file herein.

28                  This case arises from the allegation that Rudy Klopman-Baerselman, Decedent, was  
29 exposed to asbestos from approximately 1955 through 1959 while working as a merchant  
30 mariner and employee of "Royal Dutch Lloyd, Rotterdam Lloyd," the alleged employer and  
31 corporate owner of the vessels. Dkt. 1-3. Defendant Maersk Line, Limited is named as  
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1 “successor-in-interest to Royal Rotterdam Lloyd [“RRL”].” *Id.* at 2, 7. The case was filed in  
2 Thurston County Superior Court on October 27, 2017, and was removed to this Court on July 3,  
3 2018. Dkt. 1; Dkt. 1-6 at 4, 5.

4       Defendant seeks summary judgment of dismissal and argues: (1) Defendant should be  
5 dismissed as an improper party, because Defendant is not a successor-in-interest to RRL; (2) the  
6 Amended Complaint does not state a claim, because RRL never manufactured, sold or  
7 distributed asbestos-containing products; and (3) the Court lacks jurisdiction, because Decedent  
8 was a foreign seaman aboard foreign vessels in foreign waters. Dkt. 9 at 10, 11.

9       Plaintiff’s Response addresses only the first argument, whether Defendant is a successor-  
10 in-interest to RRL. *See* Dkt. 70. Plaintiff requests additional time “to conduct sufficient  
11 discovery on the relationship” between several corporate entities “and [Defendant], if any.” Dkt.  
12 70 at 6. However, Plaintiff has already conducted an initial round of discovery on the issue. Dkt.  
13 12-3 at 7 26. Plaintiff’s Response fails to detail what counsel in good faith believes further  
14 discovery may yield. Plaintiff’s showing is probably not sufficiently specific under Fed. R. Civ.  
15 P. 56(d).

16       Plaintiff’s Response makes no mention of the second argument, that Defendant should be  
17 dismissed because it is not an asbestos manufacturer. *See* Dkt. 70. From other context in the  
18 Amended Complaint, it could be argued that Defendant has simply flagged a drafting or  
19 organization issue, because Defendant was ostensibly not intended to be named as an asbestos  
20 manufacturer, but rather as the corporate inheritor of the asbestos liabilities for certain vessels.  
21 Plaintiff has not sought leave to amend and has offered no alternative interpretation of the  
22 Amended Complaint.

1       The third argument, that the Court lacks jurisdiction because Decedent was a foreign  
2 seaman aboard foreign vessels in foreign waters, could be dispositive in favor of Defendant. Yet  
3 Plaintiff neither responded to Defendant's factual or legal showings, nor articulated a specific,  
4 good faith basis for more discovery on the issue.

5       Because the case is new to this Court, the record is limited, and Plaintiff has requested  
6 more time for discovery on at least one issue, Plaintiff should be given a limited opportunity to  
7 supplement the Response, as follows. By Friday, August 24, 2018, Plaintiff may supplement the  
8 Response to address Defendant's arguments. Arguments not raised will be considered conceded.  
9 The pleadings, not including any declarations or attachments, shall not exceed ten (10) pages.

10 THEREFORE, it is HEREBY ORDERED:

- 11             (1) Defendant Maersk Line, Limited's Motion for Summary Judgment is RENOTED for
- 12                 consideration on Friday, August 24, 2018.
- 13             (2) Plaintiff may file a Supplemental Response by Friday, August 24, 2018.
- 14             (3) The Supplemental Response shall not exceed ten (10) pages.

15 It is so ordered.

16       The Clerk is directed to send uncertified copies of this Order to all counsel of record and  
17 to any party appearing *pro se* at said party's last known address.

18       Dated this 15<sup>th</sup> day of August, 2018.

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21             ROBERT J. BRYAN  
22             United States District Judge  
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